

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

SOFT-AID, INC.,)	
)	
Plaintiff,)	
)	
v.)	NO. 1:14-CV-10419-LTS
)	
SAM-ON-DEMAND, LLC and)	PLAINTIFF'S
DAVID MANSFIELD,)	SUPPLEMENTAL COMPLAINT
)	
Defendants)	Jury Trial Demanded
)	
)	

1. Pursuant to the Court's Order (Doc. 153, at 5) granting Plaintiff's Motion to Supplement the Complaint (Doc. 133) ("Motion") under Federal Rule of Civil Procedure 15,¹ Plaintiff hereby supplements its Complaint (Doc. 1) to include the copyrighted work "Final Presentation Template for Microsoft SAM Engagements" (TXu-1-954-823) as described in the Motion and in the parties' summary judgment briefs (Docs. 114, 118, 124).

2. Plaintiff repeats and incorporates by reference the Complaint's allegations and requests for relief (including without limitation Count I: Copyright Infringement, paragraphs 31-39) and hereby incorporates the Final Presentation Template (TXu-1-954-823) in those allegations and requests for relief, including without limitation Defendants' willful infringement of the Final Presentation Template (TXu-1-954-823) and Plaintiff's requests for damages, profits, injunction, and other relief as stated in the Complaint. Plaintiff does not, however, request statutory damages for infringement of the Final Presentation Template (TXu-1-954-823).
See Report and Recommendation on Cross-Motions for Summary Judgment (Doc. 140) at 14.

¹ The Order also addressed the parties' cross-motions for summary judgment.

3. Plaintiff owns the following six original works of authorship (i. through v. as referenced in the original Complaint, vi. in this Supplemental Complaint), registered with the Copyright Office, all of which have been willfully infringed by Defendants:

- i. MS Microsoft SW Software Baseline – Template (ELP) (TXu 1-808-879) (registration attached as Ex. A to Complaint)
- ii. SOW (Statement of Work) and Project Plan Template for Microsoft SAM Engagements (TXu 1-867-104) (Ex. B to Complaint)
- iii. Software by Machine Query for Configuration Manager (TXu 1-867-067) (Ex. D to Complaint)
- iv. Representation of Certain Bundled Microsoft Products in Microsoft License Position Analysis (ELP) (VAu 1-146-874) (Ex. F to Complaint)
- v. General Representation of Microsoft Products in Microsoft License Position Analysis (ELP) (Txu 1-869-448) (Ex. G to Complaint)
- vi. Final Presentation Template for Microsoft SAM Engagements” (TXu-1-954-823) (registration attached hereto as Exhibit 1).

Plaintiff does not allege infringement of two additional works (not listed above) referenced in its original Complaint (Exs. C and E). *See Report and Recommendation* (Doc. 140) at 9; Ex. C to Complaint (Doc. 1-3, TXu 1-867-060 (Code for Core)); Ex. E to Complaint (Doc. 1-5, TXu 1-867-061 (Questionnaire)).

4. The Court has granted-in-part Plaintiff's Motion for Summary Judgment on Count I of its Complaint (Copyright Infringement), ruling there is no triable issue regarding Plaintiff's ownership of the copyrighted works, and that Defendant SOD has infringed two of the works: the SOW (Statement of Work) (TXu 1-867-104), and the Software by Machine Query for Configuration Manager (TXu 1-867-067). *See Report and Recommendation* (Doc. 140) at 8-9, 16-18 (validity and ownership of all of the works); Corrected Order (Doc. 153) at 1, 5 (adopting

Report and Recommendation in full, except as to SOD's infringement of the SOW and Software by Machine Query).

5. The Court also granted Defendants' Motion for Summary Judgment regarding the following causes of action alleged in Plaintiff's Complaint: Count II (Lanham Act), Count VI (Unfair Competition), Count VII (Unfair or Deceptive Trade Practices – G.L. 93A), and Count VIII (Unjust Enrichment). *See* Corrected Order on Report and Recommendation (Doc. 153).

6. Plaintiff reiterates its demand for trial by jury.

By:

Gary G. Pelletier
(B.B.O. 631732)
PELLETIER CLARKE & CALEY, LLC
35 Touro St.
Newport, RI 02840
(401) 849-4400
gpelletier@pcclaw.net

/s/ Scott E. Bain
Scott E. Bain
Pro hac vice
BAIN LAW OFFICES
1050 30th St. NW
Washington, DC 20007
scott@bainlawoffices.com
(703) 967-9655

Dated February 10, 2017

CERTIFICATE OF SERVICE

I hereby certify that on February 10, 2017, I caused a copy of the foregoing document to be served upon the following Counsel for Defendants, via filing in the ECF system.

James L. Tuxbury
Hinckley Allen
50 Kennedy Plaza, Ste. 1500
Providence, RI 02903-2319
(401) 457-5122 (telephone)
(401) 277-9600 (facsimile)
jtuxbury@hinckleyallen.com

Brian T McKernan
McGrath North
1601 Dodge Street
Omaha, NE 69102
402-633-6896
bmckernan@mcgrathnorth.com

Mitchell R. Edwards
Hinckley Allen Snyder LLP
Suite 1500
50 Kennedy Plaza
Providence, RI 02903
401-274-2000
Fax: 401-277-9600
Email: medwards@haslaw.com

/s/ Scott E. Bain
Scott E. Bain
Pro hac vice
BAIN LAW OFFICES
1050 30th St. NW
Washington, DC 20007
scott@bainlawoffices.com
(703) 967-9655